IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 5582 of 2006
Date of decision : 9th November, 2006

Khiali Ram .....*Petitioner*

Versus

State of Haryana and Ors. .....*Respondents*

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Ms Ranjana Shahi, Advocate
for the petitioner

Mr.R.S.Kundu, Addl. A.G., Haryana with
Mr. S.K. Bishnoi, Sr. DAG, Haryana

Mr. U.K. Agnihotri, Advocate
for respondent No. 4

NIRMAL YADAV, J.

The present petition has been filed by the petitioner under Section 226/227 of the Constitution of India, for quashing order dated 17.06.2003, Annexure P-1, passed by the Collector, Hissar by virtue of which respondent No.4 has been appointed as Lambardar of Village Thurana and order dated 16.03.2005, Annexure P-12, passed by the Commissioner, Hissar Division, Hissar and order dated 30.05.2005, Annexure P-14, passed by the Financial Commissioner (Revenue), Haryana, whereby the orders passed by the authorities below, have been affirmed.

Facts, in brief, are that on account of death of Dalip Singh, previous Lambardar of Village Thurana, District Hissar, a post of Lambardar fell vacant. Without following the due procedure, the name of respondent No.4 recommended by the Tehsildar to the Collector. However, when the

matter was agitated by the petitioner as well as some other respectable of the Village, the Collector, vide order dated 03.07.2002 ordered for fresh proclamation. In pursuance of the proclamation, six candidates, including the petitioner and respondent No.4, applied for the post of Lambardar, out of which, three candidates withdrew their applications in favour of the petitioner by submitting their affidavits. It is pleaded that out of the remaining three candidates, the petitioner was most suitable candidate for appointment. However, the Collector appointed respondent No.4 as Lambardar mainly on the ground that he is the son of deceased Lambardar and is 36 years of age. The relevant extract of the order of the Collector appointing respondent No.4 as Lambardar is reproduced below:-

> *" In the light of the above and going through the available record on the file, I considered Shri Mahavir Singh candidate as more meritorious candidate comparatively than the other candidates. He is of 36 years of age having good personality and he has work experience of Namberdari. For the purpose of security of the Government money, he has 8 kanals 18 marlas agricultural land and plot which is sufficient for the purpose of security. He has god credibility in the Village. The respectables of the village also want to appoint him as Namberdar. He actively participated in the collective work of the village and help the Govt. Officials at the time of visit. The Naib Tehsildar and Tehsildar, Hansi, have also recommended the name of Shri Mahavir Singh for the appointment on the post of Namberdar. Hence, I agreeing with the recommendation of the Circle Revenue Officer and Sub Divisional Officer (Civil), Hansi, appoint Shri Mahavir Singh son of Dalip Singh on the vacant post of Namberdar of Village Thurana in General Category.*

Namberdari be granted."

We have heard the learned counsel for the parties.

Learned counsel for the petitioner mainly argued that the petitioner is more meritorious than respondent No.4. He is a retired military officer and more suitable to carry out the duties of Lambardar diligently and carefully. He owns 60 kanals agricultural land, whereas, respondent No.4 owns only 8 kanals 18 marlas of agricultural land. The petitioner was conferred the Rank of Honorary Captain by the President of India. He has been granted the decree of graduation after putting in service of more than 15 years in the Armed Force. He has also passed security training from Military and has also completed the training in Assistant Security Officer/Supervisor. Copies of the certificates have been placed on record as Annexures P-2 to P-5. The Head Master of the Government Girls Primary School, Thurna has also issued a certificate qua the services rendered by the petitioner. The Sarpanch of the village also recommended the petitioner's name and issued a certificate with regard to his good conduct. More than 100 respectable of the village recommended petitioner's name. The petitioner is a disciplined, dedicated and devoted social worker. Copies of the certificates have been annexed with the petition as Annexures P-6 to P-9. The petitioner has motivated family planning in the village and is also a member of village Education Committee under D.P.E.P. Scheme. He has good relations with the co-villagers and carries very good reputation in the village. He has prepared the youth for service and inculcated the spirit of national service among them. He was appointed as '*Arji Lambardar*' by the Tehsildar, Hansi in his Bhart. He deposited the complete revenue before the due date.

Learned counsel for the petitioner further argued that the office of Lambardar is not hereditary office and a son of Lambardar could not automatically be appointed as Lambardar.

On the other hand, learned counsel for respondent No.4 submitted that he has been found more meritorious by the authorities and the revenue authorities are the best judge to evaluate the merit of the candidates for appointment to the post of Lambardar. Since the order of the Collector does not suffer from any infirmity or patent illegality and it has been further upheld by the higher authorities, therefore, no interference in the writ jurisdiction is called for. He further argued that the petitioner has unauthorisedly occupied the land of the Gram Panchayat Thurana, and proceedings under section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, are pending against him. On demarcation, the petitioner was found in unauthorized possession of the Gram Panchayat's land, but still he has not vacated the same. The proceedings filed against him vide application No. 266 of 2005, are still pending. It is further argued that the petitioner is merely matriculate. As per the certificate, he can only be considered eligible for appointment to any reserved vacancy in Group 'C' posts, for which the essential qualification is graduation and where experience of technical or professional nature is not essential. It is further argued that respondent No.4 has been working as 'Sarbrah' Lambardar, thus he has gained experience of working as Lambardar. In support of his contentions, learned counsel has referred to our own High Court judgments reported as **2002(2) RCR (Civil) 520** titled as *Sarwan Kumar Versus The Financial Commissioner Appeals-I, Punjab* and **2001 (1) RCR (Civil) 9**

titled as *Bhag Singh Versus Financial Commissioner (Revenue) Haryana.*

On a careful consideration of the rival submissions, facts and circumstances of the case, we find that the Collector in his order, has discussed in detail the age, education qualifications and experience etc. of the petitioners and respondent No.4. Admittedly, the petitioner is graduate, therefore, the plea taken by respondent No.4 that the petitioner is a matriculate, cannot be accepted. As per the certificate (Annexure P-3), the petitioner has to be considered educationally qualified for Group 'C' posts where prescribed qualification is graduation. His eligibility qualification has been equated to graduation on account of his work experience of 15 years service in armed force. He has been conferred the Rank of Honorary Captain by the order of the President of India. The petitioner having served in the armed force and is a dedicated and disciplined person even after his retirement. He has further been given the Security Training Certificate and has also completed Training of Assistant Security Officer/Supervisor. The Head Master of Government Girls Primary School, Thurana has issued a certificate of appreciation in his favour (Annexure P-6). Similarly, Sarpanch of Village Thurana has also issued a character certificate (Annexure P-7) in his favour. About 100 respectable persons of Village Thurana has submitted representation to the Commissioner in favour of the petitioner and for cancellation of appointment of respondent No.4. As per the representation (Annexure P-8), the petitioner enjoys a good reputation in the village. As regards the application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, it is suffice to say that these proceedings appears to be motivated, having been filed after initiation of procedure for

appointment to the post of Lambardar.

Respondent No.4 does not have better claim on account of inheritance as the office of Lambardar is not a hereditary office. It appears that the competent authority has totally ignored the comparative merits of the petitioner as well as respondent No.4. As per the qualification the petitioner has certainly an edge over respondent No.4. No doubt, the choice of the competent authority in the appointment of Lambardar should not ordinarily be interfered with, but from the facts of the present case, it is quite evident that the authorities have totally ignored the merits of one of the candidates, therefore, interference is necessitated.

In view of the above, we find that the petitioner would be the best suitable candidate for the post of Lambardar as he has experience of being the member of disciplined force and is more meritorious. Accordingly, the present writ petition is allowed and it is directed that the petitioner be appointed as Lambardar of Village Thurana.

(NIRMAL YADAV)
JUDGE

(ASHUTOSH MOHUNTA)
JUDGE

November 09, 2006
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